

REMARKS/ARGUMENTS

Claims 1-4, 6-11 and 13-23 are pending herein. Claim 1 has been amended as supported by page 4, lines 12-14 of the specification, for example. New claim 23 has been added as supported by page 11, lines 4-11 of the specification, for example. Applicants respectfully submit that no new matter has been added.

Examiner Nasser is thanked for courtesies extended to Applicants' representative during a telephonic interview on May 29, 2009. During the interview, Examiner Nasser indicated that an RCE would be required for the amendment to claim 1 and the addition of new claim 23 submitted above.

1. Claims 1, 6-8, 10 and 13 were rejected under §103(a) over Cowie in view of Ouellette. To the extent that this rejection may be applied against amended claim 1, it is respectfully traversed.

Claim 1 has been amended to clarify that a skin TEWL sensor is used to measure the transepidermal water loss from the underlying layers of the epidermis or skin. This water loss parameter of the skin is independent of transpiration and involves only the evaporation or diffusion of water vapor from the cutaneous layer outward to the surrounding environment. Applicants respectfully submit that the TEWL or transepidermal water loss measurement accurately monitors and measures the hydro lipid film that provides a barrier type function within the skin layers that ultimately defines the scale or amount of cutaneous dryness of the skin. In addition, since the TEWL water loss measurement is independent of transpiration and contact with the skin, the amount of water stored in the skin can be determined regardless of the weather, climate and/or ambient temperature, and therefore provides an effective and important indication of the overall health of the skin that can be used under a variety of environmental conditions.

Neither the claimed invention nor attendant advantages thereof would have been obvious to one skilled in the art based on the applied prior art.

Cowie discloses a method and an apparatus for locating and assessing soft tissue lesions by use of a probe for contacting the desired area of the skin to be measured. There is no disclosure or suggestion in Cowie, however, regarding the use of a TEWL skin sensor for measuring transepidermal water loss, as presently claimed.

Moreover, Applicants respectfully submit that there is no disclosure or suggestion in Cowie that such a TEWL skin sensor can be located within a handheld mobile component, so that when the handheld unit is directed toward an acquisition region, it effectively monitors the hydro lipid film function and cutaneous dryness of the skin while being fully independent of any transpiration, as in the case of the present invention.

Ouellette fails to overcome the deficiencies of Cowie. Ouellette discloses a skin condition analyzer that includes a probe apparatus for generating a skin condition signal representative of the moisture content of the skin and a separate processor that adjusts the skin condition signal in accordance to environmental components. Although Ouellette discloses a probe apparatus for generating a signal representing the moisture content of the skin, there is no disclosure or suggestion regarding the now claimed TEWL skin sensor for measuring the evaporation or diffusion of water from the cutaneous layer outward.

Moreover, Applicants respectfully submit that there is no reason why one skilled in the art would even look to Ouellette to overcome the deficiencies of Cowie, as described above. Even if one skilled in the art were to combine the cited references, there is no disclosure or suggestion on how to measure the transepidermal water loss from the underlying skin layer without actual contact with the skin as attained by the presently claimed TEWL sensor. As such, it is clear that there is no disclosure or suggestion in Cowie and Ouellette on how to provide the claimed combination of sensors within a single handheld mobile component to measure the cutaneous dryness and overall health of the skin regardless of any transpiration or moisture present on the surface of the skin, as in the case of the present invention.

Applicants respectfully submit that the prior art of record fails to disclose each and every element recited in amended claim 1. Accordingly, Applicants respectfully submit that claim 1, and claims 6-8, 10 and 13 that depend either directly or indirectly from claim 1, define patentable subject matter over the applied references, and respectfully request that the above rejection be reconsidered and withdrawn.

2. Claims 1, 6, 8 and 16 were rejected under §103(a) over Khazaka in view of Ouellette. To the extent that this rejection may be applied against the amended claims, it is respectfully traversed.

Amended claim 1 has been discussed above.

Khazaka discloses a device for measuring parameters of the skin of living beings on the surface of the skin to be examined. The device of Khazaka includes a humidity absorbing film that absorbs and measures the secretion amount of humidity through contact with the skin surface. There is no disclosure or suggestion in Khazaka regarding the use of a TEWL skin sensor for measuring the transepidermal water loss, as presently claimed.

Applicants acknowledge that Khazaka also discloses that a humidity sensor may be used as an alternative to the humidity absorbing film as long as the surface of the humidity sensor is flush with the outer surface of the transparent pane (see column 3, lines 52-59 of Khazaka). Applicants respectfully submit, however, that this positional requirement in Khazaka provides and maintains that the humidity sensor is in direct contact with the skin and measures the secretions of the skin through the common outer contact surface formed by the transparent pane. Therefore, although Khazaka may disclose the use of a humidity sensor, as in Cowie, there is no disclosure or suggestion on how to measure the evaporation or diffusion of water from the cutaneous layer outward without contacting the skin, as in the present invention. As such, Khazaka fails to disclose or suggest the presently claimed TEWL sensor for the same reasons as explained in Cowie, and it is clear that there is no disclosure or suggestion in Khazaka on how to provide such a transepidermal water loss sensor to

measure the cutaneous dryness and overall health of skin that is fully independent of transpiration and skin contact.

Ouellette fails to overcome the deficiencies of Khazaka for the same reasons as when combined with Cowie explained above. As such, Applicants respectfully submit that, to the extent that one skilled in the art would have found it obvious to combine Khazaka and Ouellette, the resulting structure would still not include a TEWL skin sensor for measuring transepidermal water loss within a handheld mobile component, as claimed.

For the foregoing reasons, Applicants respectfully submit that the prior art of record fails to disclose or suggest each and every element now recited in amended claim 1. Since claims 6, 8 and 16 depend either directly or indirectly from claim 1, those claims are also believed to be allowable over the applied prior art. Accordingly, reconsideration and withdrawal of the present rejection are respectfully requested.

3. Claim 4 was rejected under §103(a) over Cowie in view of Ouellette and further in view of Haddock; claims 9 and 11 were rejected under §103(a) over Khazaka in view of Ouellette and further in view of Leveque; and claims 2, 3, 14, 15 and 17-22 were rejected under §103(a) over Khazaka in view of Ouellette and further in view of Rubinstenn. Applicants respectfully submit that the arguments presented above distinguish claim 1 from Cowie, Khazaka and Ouellette. Since Haddock, Leveque and Rubinstenn fail to overcome the deficiencies of Cowie, Khazaka and Ouellette, and since claims 2-4, 9, 11, 14, 15 and 17-22 depend either directly or indirectly from claim 1, those claims are also believed to be allowable over the applied prior art.

New dependent claim 23 further recites that the TEWL sensor comprises a polymeric film which condenses the water vapor evaporating from the cutaneous layer. Applicants respectfully submit that these features are neither disclosed nor suggested by the applied prior art. As such, new claim 23 provides further patentable distinctions over the applied references.

For at least the foregoing reasons, Applicants respectfully submit that all claims pending herein are in condition for allowance. Accordingly, Examiner Nasser is requested to issue a Notice of Allowance in due course.

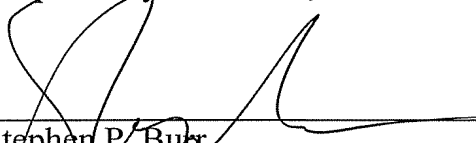
If Examiner Nasser believes that contact with Applicants' attorney would be advantageous toward the disposition of this case, he is herein requested to call Applicants' attorney at the phone number noted below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-1446.

June 1, 2009

Date

Respectfully submitted,



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